

**HOUSE BILL NO. 33**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES MEYER, Wilson, Kelly, Neuman**

**Introduced: 1/10/05**

**Referred: Labor and Commerce, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the effect of regulations on small businesses; and providing for an**  
2   **effective date."**

3   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4    \* **Section 1.** AS 44.62 is amended by adding a new section to read:

5           **Sec. 44.62.198. Regulations affecting small businesses.** (a) Before an  
6           agency adopts a proposed regulation that may have an adverse effect on small  
7           businesses, the agency shall prepare an economic effect statement that provides

8                       (1) an identification and estimate of the number of small businesses  
9           that would be subject to the proposed regulation;

10                      (2) the projected reporting, recordkeeping, and other administrative  
11           costs that small businesses would be required to incur in order to comply with the  
12           proposed regulation, including an identification of the type of professional skills  
13           necessary to prepare the report or record or to take the administrative action;

14                      (3) a statement of the probable effect that the proposed regulation

1 would have on the small businesses affected by the proposed regulation; and

2 (4) a description of any alternative methods of achieving the purpose  
3 of the proposed regulation that would be less intrusive or less costly for the small  
4 businesses affected by the proposed regulation.

5 (b) Before an agency adopts a proposed regulation that may have an adverse  
6 effect on small businesses, the agency shall prepare a regulatory flexibility analysis in  
7 which the agency shall consider using regulatory methods that

8 (1) minimize the adverse effect of the regulation on small businesses  
9 while accomplishing the objectives of statutes authorizing the proposed regulation;  
10 and

11 (2) are consistent with health, safety, environmental welfare, and  
12 economic welfare.

13 (c) When preparing the regulatory flexibility analysis under (b) of this section,  
14 the agency shall consider

15 (1) the establishment of less stringent compliance or reporting  
16 requirements for small businesses;

17 (2) the establishment of less stringent schedules or deadlines for  
18 compliance or reporting requirements for small businesses;

19 (3) the consolidation or simplification of compliance or reporting  
20 requirements for small businesses;

21 (4) the establishment of performance standards to replace design or  
22 operational standards for small businesses; and

23 (5) the exemption of small businesses from all or any part of the  
24 requirements contained in the proposed regulation.

25 (d) Before an agency adopts a proposed regulation that may have an adverse  
26 effect on small businesses, the agency shall notify the Department of Commerce,  
27 Community, and Economic Development of the agency's intent to adopt the proposed  
28 regulation. The Department of Commerce, Community, and Economic Development  
29 shall advise and assist agencies to comply with this section.

30 (e) Every five years after the agency's adoption of a proposed regulation that is  
31 subject to this section, the agency shall review the regulation to ensure that the

1 regulation minimizes its economic effect on small businesses in a manner consistent  
2 with the objectives of the statutes that authorized the regulation.

3 (f) When reviewing a regulation under (e) of this section, the agency shall  
4 consider

5 (1) the continued need for the regulation;

6 (2) the nature of complaints or comments received by the agency from  
7 the public concerning the regulation;

8 (3) the complexity of the regulation;

9 (4) the extent to which the regulation overlaps, duplicates, or conflicts  
10 with other federal, state, and local government regulations; and

11 (5) the degree to which technology, economic conditions, or other  
12 factors have changed in the area affected by the regulation.

13 (g) A small business that is adversely affected or aggrieved by an agency's  
14 final adoption of a proposed regulation that is subject to this section may bring an  
15 action in the superior court to determine whether the agency complied with this  
16 section.

17 (h) In this section,

18 (1) "proposed regulation" means a proposal by an agency for a new  
19 regulation or for a change in, addition to, or repeal of an existing regulation;

20 (2) "regulation" has the meaning given in AS 44.62.640, except that  
21 "regulation" does not include a declaratory ruling or an intra-agency or interagency  
22 memorandum;

23 (3) "small business" means a business entity, including its affiliates,  
24 that

25 (A) is independently owned and operated; and

26 (B) employs fewer than 100 full-time employees or has gross  
27 annual sales of less than \$6,000,000.

28 \* **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to  
29 read:

30 TRANSITION. (a) AS 44.62.198, enacted by sec. 1 of this Act, applies to a proposed  
31 regulation proposed on or after January 1, 2006. In this section, " proposed regulation" has

1 the meaning given in AS 44.62.198, enacted by sec. 1 of this Act.

2 (b) Within four years after the effective date of this Act, each state agency shall  
3 review its regulations that are in existence on the effective date of this Act to determine  
4 whether the regulations should be continued without change, amended, or repealed to  
5 minimize the effect of the regulations on small businesses in a manner consistent with  
6 AS 44.62.198, enacted by sec. 1 of this Act. If the head of an agency determines that  
7 completion of the review of an existing regulation is not feasible within the four-year period,  
8 the agency shall publish a statement certifying that determination, and the agency may extend  
9 the completion date by one year at a time for a maximum of five years.

10 \* **Sec. 3.** This Act takes effect January 1, 2006.